



# GENERAL ASSEMBLY

## COMMONWEALTH OF KENTUCKY

### 2013 REGULAR SESSION

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HOUSE BILL NO. 8

AS ENACTED

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ALISON LUNDERGAN GRIMES  
SECRETARY OF STATE  
COMMONWEALTH OF KENTUCKY  
BY R. Adles

1 AN ACT relating to drugs.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔Section 1. KRS 218A.010 is amended to read as follows:

4 As used in this chapter:

5 (1) "Administer" means the direct application of a controlled substance, whether by  
6 injection, inhalation, ingestion, or any other means, to the body of a patient or  
7 research subject by:

8 (a) A practitioner or by his or her authorized agent under his or her immediate  
9 supervision and pursuant to his or her order; or

10 (b) The patient or research subject at the direction and in the presence of the  
11 practitioner;

12 (2) "Anabolic steroid" means any drug or hormonal substance chemically and  
13 pharmacologically related to testosterone that promotes muscle growth and includes  
14 those substances listed in KRS 218A.090(5) but does not include estrogens,  
15 progestins, and antisteroids;

16 (3) "Cabinet" means the Cabinet for Health and Family Services;

17 (4) "Child" means any person under the age of majority as specified in KRS 2.015;

18 (5) "Cocaine" means a substance containing any quantity of cocaine, its salts, optical  
19 and geometric isomers, and salts of isomers;

20 (6) "Controlled substance" means methamphetamine, or a drug, substance, or  
21 immediate precursor in Schedules I through V and includes a controlled substance  
22 analogue;

23 (7) (a) "Controlled substance analogue," except as provided in paragraph (b) of this  
24 subsection, means a substance:

25 1. The chemical structure of which is substantially similar to the structure  
26 of a controlled substance in Schedule I or II; and

27 2. Which has a stimulant, depressant, or hallucinogenic effect on the

1 central nervous system that is substantially similar to or greater than the  
 2 stimulant, depressant, or hallucinogenic effect on the central nervous  
 3 system of a controlled substance in Schedule I or II; or

4 3. With respect to a particular person, which such person represents or  
 5 intends to have a stimulant, depressant, or hallucinogenic effect on the  
 6 central nervous system that is substantially similar to or greater than the  
 7 stimulant, depressant, or hallucinogenic effect on the central nervous  
 8 system of a controlled substance in Schedule I or II.

9 (b) Such term does not include:

- 10 1. Any substance for which there is an approved new drug application;
- 11 2. With respect to a particular person, any substance if an exemption is in  
 12 effect for investigational use for that person pursuant to federal law to  
 13 the extent conduct with respect to such substance is pursuant to such  
 14 exemption; or
- 15 3. Any substance to the extent not intended for human consumption before  
 16 the exemption described in subparagraph 2. of this paragraph takes  
 17 effect with respect to that substance;

18 (8) "Counterfeit substance" means a controlled substance which, or the container or  
 19 labeling of which, without authorization, bears the trademark, trade name, or other  
 20 identifying mark, imprint, number, or device, or any likeness thereof, of a  
 21 manufacturer, distributor, or dispenser other than the person who in fact  
 22 manufactured, distributed, or dispensed the substance;

23 (9) "Dispense" means to deliver a controlled substance to an ultimate user or research  
 24 subject by or pursuant to the lawful order of a practitioner, including the packaging,  
 25 labeling, or compounding necessary to prepare the substance for that delivery;

26 (10) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V  
 27 controlled substance to or for the use of an ultimate user;

1 (11) "Distribute" means to deliver other than by administering or dispensing a controlled  
2 substance;

3 (12) "Dosage unit" means a single pill, capsule, ampule, liquid, or other form of  
4 administration available as a single unit;

5 (13) "Drug" means:

6 (a) Substances recognized as drugs in the official United States Pharmacopoeia,  
7 official Homeopathic Pharmacopoeia of the United States, or official National  
8 Formulary, or any supplement to any of them;

9 (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or  
10 prevention of disease in man or animals;

11 (c) Substances (other than food) intended to affect the structure or any function of  
12 the body of man or animals; and

13 (d) Substances intended for use as a component of any article specified in this  
14 subsection.

15 It does not include devices or their components, parts, or accessories;

16 (14) "Good faith prior examination," as used in KRS Chapter 218A and for criminal  
17 prosecution only, means an in-person medical examination of the patient conducted  
18 by the prescribing practitioner or other health-care professional routinely relied  
19 upon in the ordinary course of his or her practice, at which time the patient is  
20 physically examined and a medical history of the patient is obtained. "In-person"  
21 includes telehealth examinations. This subsection shall not be applicable to hospice  
22 providers licensed pursuant to KRS Chapter 216B;

23 (15) "Hazardous chemical substance" includes any chemical substance used or intended  
24 for use in the illegal manufacture of a controlled substance as defined in this section  
25 or the illegal manufacture of methamphetamine as defined in KRS 218A.1431,  
26 which:

27 (a) Poses an explosion hazard;

1 (b) Poses a fire hazard; or

2 (c) Is poisonous or injurious if handled, swallowed, or inhaled;

3 (16) "Heroin" means a substance containing any quantity of heroin, or any of its salts,  
4 isomers, or salts of isomers;

5 (17) "Immediate precursor" means a substance which is the principal compound  
6 commonly used or produced primarily for use, and which is an immediate chemical  
7 intermediary used or likely to be used in the manufacture of a controlled substance  
8 or methamphetamine, the control of which is necessary to prevent, curtail, or limit  
9 manufacture;

10 (18) "Intent to manufacture" means any evidence which demonstrates a person's  
11 conscious objective to manufacture a controlled substance or methamphetamine.  
12 Such evidence includes but is not limited to statements and a chemical substance's  
13 usage, quantity, manner of storage, or proximity to other chemical substances or  
14 equipment used to manufacture a controlled substance or methamphetamine;

15 (19) "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and  
16 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical,  
17 positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer"  
18 means the optical or geometric isomer;

19 (20) "Manufacture," except as provided in KRS 218A.1431, means the production,  
20 preparation, propagation, compounding, conversion, or processing of a controlled  
21 substance, either directly or indirectly by extraction from substances of natural  
22 origin or independently by means of chemical synthesis, or by a combination of  
23 extraction and chemical synthesis, and includes any packaging or repackaging of the  
24 substance or labeling or relabeling of its container except that this term does not  
25 include activities:

26 (a) By a practitioner as an incident to his or her administering or dispensing of a  
27 controlled substance in the course of his or her professional practice;

- 1 (b) By a practitioner, or by his or her authorized agent under his supervision, for  
2 the purpose of, or as an incident to, research, teaching, or chemical analysis  
3 and not for sale; or
- 4 (c) By a pharmacist as an incident to his or her dispensing of a controlled  
5 substance in the course of his or her professional practice;
- 6 (21) "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the  
7 seeds thereof; the resin extracted from any part of the plant; and every compound,  
8 manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin  
9 or any compound, mixture, or preparation which contains any quantity of these  
10 substances;
- 11 (22) "Medical history," as used in KRS Chapter 218A and for criminal prosecution only,  
12 means an accounting of a patient's medical background, including but not limited to  
13 prior medical conditions, prescriptions, and family background;
- 14 (23) "Medical order," as used in KRS Chapter 218A and for criminal prosecution only,  
15 means a lawful order of a specifically identified practitioner for a specifically  
16 identified patient for the patient's health-care needs. "Medical order" may or may  
17 not include a prescription drug order;
- 18 (24) "Medical record," as used in KRS Chapter 218A and for criminal prosecution only,  
19 means a record, other than for financial or billing purposes, relating to a patient,  
20 kept by a practitioner as a result of the practitioner-patient relationship;
- 21 (25) "Methamphetamine" means any substance that contains any quantity of  
22 methamphetamine, or any of its salts, isomers, or salts of isomers;
- 23 (26) "Narcotic drug" means any of the following, whether produced directly or indirectly  
24 by extraction from substances of vegetable origin, or independently by means of  
25 chemical synthesis, or by a combination of extraction and chemical synthesis:
- 26 (a) Opium and opiate, and any salt, compound, derivative, or preparation of  
27 opium or opiate;

- 1 (b) Any salt, compound, isomer, derivative, or preparation thereof which is  
 2 chemically equivalent or identical with any of the substances referred to in  
 3 paragraph (a) of this subsection, but not including the isoquinoline alkaloids  
 4 of opium;
- 5 (c) Opium poppy and poppy straw;
- 6 (d) Coca leaves, except coca leaves and extracts of coca leaves from which  
 7 cocaine, ecgonine, and derivatives of ecgonine or their salts have been  
 8 removed;
- 9 (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
- 10 (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
- 11 (g) Any compound, mixture, or preparation which contains any quantity of any of  
 12 the substances referred to in paragraphs (a) to (f) of this subsection;
- 13 (27) "Opiate" means any substance having an addiction-forming or addiction-sustaining  
 14 liability similar to morphine or being capable of conversion into a drug having  
 15 addiction-forming or addiction-sustaining liability. It does not include, unless  
 16 specifically designated as controlled under KRS 218A.030, the dextrorotatory  
 17 isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does  
 18 include its racemic and levorotatory forms;
- 19 (28) "Opium poppy" means the plant of the species *papaver somniferum* L., except its  
 20 seeds;
- 21 (29) "Person" means individual, corporation, government or governmental subdivision  
 22 or agency, business trust, estate, trust, partnership or association, or any other legal  
 23 entity;
- 24 (30) "Physical injury" has the same meaning it has in KRS 500.080;
- 25 (31) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing;
- 26 (32) "Pharmacist" means a natural person licensed by this state to engage in the practice  
 27 of the profession of pharmacy;

- 1 (33) "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific  
2 investigator, optometrist as authorized in KRS 320.240, advanced practice  
3 registered nurse as authorized under KRS 314.011, or other person licensed,  
4 registered, or otherwise permitted by state or federal law to acquire, distribute,  
5 dispense, conduct research with respect to, or to administer a controlled substance  
6 in the course of professional practice or research in this state. "Practitioner" also  
7 includes a physician, dentist, podiatrist, veterinarian, or advanced practice registered  
8 nurse authorized under KRS 314.011 who is a resident of and actively practicing in  
9 a state other than Kentucky and who is licensed and has prescriptive authority for  
10 controlled substances under the professional licensing laws of another state, unless  
11 the person's Kentucky license has been revoked, suspended, restricted, or probated,  
12 in which case the terms of the Kentucky license shall prevail;
- 13 (34) "Practitioner-patient relationship," as used in KRS Chapter 218A and for criminal  
14 prosecution only, means a medical relationship that exists between a patient and a  
15 practitioner or the practitioner's designee, after the practitioner or his or her  
16 designee has conducted at least one (1) good faith prior examination;
- 17 (35) "Prescription" means a written, electronic, or oral order for a drug or medicine, or  
18 combination or mixture of drugs or medicines, or proprietary preparation, signed or  
19 given or authorized by a medical, dental, chiropody, veterinarian, optometric  
20 practitioner, or advanced practice registered nurse, and intended for use in the  
21 diagnosis, cure, mitigation, treatment, or prevention of disease in man or other  
22 animals;
- 23 (36) "Prescription blank," with reference to a controlled substance, means a document  
24 that meets the requirements of KRS 218A.204 and 217.216;
- 25 (37) "Presumptive probation" means a sentence of probation not to exceed the maximum  
26 term specified for the offense, subject to conditions otherwise authorized by law,  
27 that is presumed to be the appropriate sentence for certain offenses designated in



1 this chapter, notwithstanding contrary provisions of KRS Chapter 533. That  
2 presumption shall only be overcome by a finding on the record by the sentencing  
3 court of substantial and compelling reasons why the defendant cannot be safely and  
4 effectively supervised in the community, is not amenable to community-based  
5 treatment, or poses a significant risk to public safety;

6 (38) "Production" includes the manufacture, planting, cultivation, growing, or harvesting  
7 of a controlled substance;

8 (39) "Recovery program" means an evidence-based, nonclinical service that assists  
9 individuals and families working toward sustained recovery from substance use and  
10 other criminal risk factors. This can be done through an array of support programs  
11 and services that are delivered through residential and nonresidential means;

12 (40) "Salvia" means *Salvia divinorum* or Salvinorin A and includes all parts of the plant  
13 presently classified botanically as *Salvia divinorum*, whether growing or not, the  
14 seeds thereof, any extract from any part of that plant, and every compound,  
15 manufacture, derivative, mixture, or preparation of that plant, its seeds, or its  
16 extracts, including salts, isomers, and salts of isomers whenever the existence of  
17 such salts, isomers, and salts of isomers is possible within the specific chemical  
18 designation of that plant, its seeds, or extracts. The term shall not include any other  
19 species in the genus *salvia*;

20 (41) "Second or subsequent offense" means that for the purposes of this chapter an  
21 offense is considered as a second or subsequent offense, if, prior to his or her  
22 conviction of the offense, the offender has at any time been convicted under this  
23 chapter, or under any statute of the United States, or of any state relating to  
24 substances classified as controlled substances or counterfeit substances, except that  
25 a prior conviction for a nontrafficking offense shall be treated as a prior offense  
26 only when the subsequent offense is a nontrafficking offense. For the purposes of  
27 this section, a conviction voided under KRS 218A.275 or 218A.276 shall not

1 constitute a conviction under this chapter;

2 (42) "Sell" means to dispose of a controlled substance to another person for  
3 consideration or in furtherance of commercial distribution;

4 (43) "Serious physical injury" has the same meaning it has in KRS 500.080;

5 (44) "Synthetic cannabinoids or piperazines" means any chemical compound which is  
6 not approved by the United States Food and Drug Administration or, if approved,  
7 which is not dispensed or possessed in accordance with state and federal law, that  
8 contains Benzylpiperazine (BZP); Trifluoromethylphenylpiperazine (TFMPP); 1,1-  
9 Dimethylheptyl-11-hydroxytetrahydrocannabinol (HU-210); 1-Butyl-3-(1-  
10 naphthoyl)indole; 1-Pentyl-3-(1-naphthoyl)indole; dexanabinol (HU-211); or any  
11 compound in the following structural classes:

12 (a) Naphthoylindoles: Any compound containing a 3-(1-naphthoyl)indole  
13 structure with substitution at the nitrogen atom of the indole ring by an alkyl,  
14 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-  
15 piperidiny)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further  
16 substituted in the indole ring to any extent and whether or not substituted in  
17 the naphthyl ring to any extent. Examples of this structural class include but  
18 are not limited to JWH-015, JWH-018, JWH-019, JWH-073, JWH-081,  
19 JWH-122, JWH-200, and AM-2201;

20 (b) Phenylacetylindoles: Any compound containing a 3-phenylacetylindole  
21 structure with substitution at the nitrogen atom of the indole ring by an alkyl,  
22 haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-  
23 piperidiny)methyl, or 2-(4-morpholinyl)ethyl group whether or not further  
24 substituted in the indole ring to any extent and whether or not substituted in  
25 the phenyl ring to any extent. Examples of this structural class include but are  
26 not limited to JWH-167, JWH-250, JWH-251, and RCS-8;

27 (c) Benzoylindoles: Any compound containing a 3-(benzoyl)indole structure with

substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of this structural class include but are not limited to AM-630, AM-2233, AM-694, Pravadoline (WIN 48,098), and RCS-4;

(d) Cyclohexylphenols: Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent. Examples of this structural class include but are not limited to CP 47,497 and its C8 homologue (cannabicyclohexanol);

(e) Naphthylmethylinroles: Any compound containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-175, JWH-184, and JWH-185;

(f) Naphthoylpyrroles: Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-030, JWH-145, JWH-146, JWH-307, and JWH-368;

(g) Naphthylmethylindenes: Any compound containing a 1-(1-naphthylmethyl)indene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of this structural class include but are not limited to JWH-176;

(h) Tetramethylcyclopropanoylindoles: Any compound containing a 3-(1-tetramethylcyclopropoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not further substituted in the tetramethylcyclopropyl ring to any extent. Examples of this structural class include but are not limited to UR-144 and XLR-11;

(i) Adamantoylindoles: Any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl, or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring system to any extent. Examples of this structural class include but are not limited to AB-001 and AM-1248; or

(j){(h)} Any other synthetic cannabinoid or piperazine which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed or possessed in accordance with state and federal law;

(45) "Synthetic cathinones" means any chemical compound which is not approved by the United States Food and Drug Administration or, if approved, which is not dispensed

1 or possessed in accordance with state and federal law (not including bupropion or  
2 compounds listed under a different schedule) structurally derived from 2-  
3 aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or  
4 thiophene ring systems, whether or not the compound is further modified in one (1)  
5 or more of the following ways:

6 (a) By substitution in the ring system to any extent with alkyl, alkylendioxy,  
7 alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further  
8 substituted in the ring system by one (1) or more other univalent substituents.

9 Examples of this class include but are not limited to 3,4-  
10 Methylenedioxycathinone (bk-MDA);

11 (b) By substitution at the 3-position with an acyclic alkyl substituent. Examples of  
12 this class include but are not limited to 2-methylamino-1-phenylbutan-1-one  
13 (buphedrone);

14 (c) By substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or  
15 methoxybenzyl groups, or by inclusion of the 2-amino nitrogen atom in a  
16 cyclic structure. Examples of this class include but are not limited to  
17 Dimethylcathinone, Ethcathinone, and  $\alpha$ -Pyrrolidinopropiophenone ( $\alpha$ -PPP);  
18 or

19 (d) Any other synthetic cathinone which is not approved by the United States  
20 Food and Drug Administration or, if approved, is not dispensed or possessed  
21 in accordance with state or federal law;

22 (46) "Synthetic drugs" means any synthetic cannabinoids or piperazines or any synthetic  
23 cathinones;

24 (47) "Telehealth" has the same meaning it has in KRS 311.550;

25 (48) "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in  
26 the plant, or in the resinous extractives of the plant Cannabis, sp. or synthetic  
27 substances, derivatives, and their isomers with similar chemical structure and

1 pharmacological activity such as the following:

2 (a) Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;

3 (b) Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and

4 (c) Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers;

5 (49) "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute,  
6 dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense,  
7 or sell a controlled substance;

8 (50) "Transfer" means to dispose of a controlled substance to another person without  
9 consideration and not in furtherance of commercial distribution; and

10 (51) "Ultimate user" means a person who lawfully possesses a controlled substance for  
11 his or her own use or for the use of a member of his or her household or for  
12 administering to an animal owned by him or her or by a member of his or her  
13 household.

14 ➔Section 2. KRS 218A.050 is amended to read as follows:

15 Unless otherwise rescheduled by administrative regulation of the Cabinet for Health and  
16 Family Services, the controlled substances listed in this section are included in Schedule  
17 I:

18 (1) Any material, compound, mixture, or preparation which contains any quantity of the  
19 following opiates, including their isomers, esters, ethers, salts, and salts of isomers,  
20 esters, and ethers, unless specifically excepted, whenever the existence of these  
21 isomers, esters, ethers, or salts is possible within the specific chemical designation:  
22 Acetylmethadol; Allylprodine; Alphacetylmethadol; Alphameprodine;  
23 Alphamethadol; Benzethidine; Betacetylmethadol; Betameprodine; Betamethadol;  
24 Betaprodine; Clonitazene; Dextromoramide; Dextrophan; Diampromide;  
25 Diethylthiambutene; Dimenoxadol; Dimepheptanol; Dimethylthiambutene;  
26 Dioxaphetyl butyrate; Dipipanone; Ethylmethylthiambutene; Etonitazene;  
27 Etixeridine; Furethidine; Hydroxypethidine; Ketobemidone; Levomoramide;

1 Levophenacymorphan; Morpheridine; Noracymethadol; Norlevorphanol;  
 2 Normethadone; Norpipanone; Phenadoxone; Phenampromide; Phenomorphan;  
 3 Phenoperidine; Piritramide; Proheptazine; Properidine; Propiram; Racemoramide;  
 4 Trimeperidine.

5 (2) Any material, compound, mixture, or preparation which contains any quantity of the  
 6 following opium derivatives, including their salts, isomers, and salts of isomers,  
 7 unless specifically excepted, whenever the existence of these salts, isomers, or salts  
 8 of isomers is possible within the specific chemical designation: Acetorphine;  
 9 Acetyldihydrocodeine; Benzylmorphine; Codeine methylbromide; Codeine-N-  
 10 Oxide; Cyprenorphine; Desomorphine; Dihydromorphine; Etorphine; Heroin;  
 11 Hydromorphanol; Methyldesorphine; Methyldihydromorphine; Morphine  
 12 methylbromide; Morphine methylsulfonate; Morphine-N-Oxide; Myrophine;  
 13 Nicocodeine; Nicomorphine; Normorphine; Pholcodine; Thebacon.

14 (3) Any material, compound, mixture, or preparation which contains any quantity of the  
 15 following hallucinogenic substances, their salts, isomers, or salts of isomers, unless  
 16 specifically excepted, whenever the existence of these salts, isomers, and salts of  
 17 isomers is possible within the specific chemical designation: 3, 4-  
 18 methylenedioxyamphetamine; 5-methoxy-3, 4-methylenedioxy amphetamine; 3, 4,  
 19 5-trimethoxyamphetamine; Bufotenine; Diethyltryptamine; Dimethyltryptamine; 4-  
 20 methyl-2, 5-dimethoxyamphetamine; Ibogaine; Lysergic acid diethylamide;  
 21 Marijuana; Mescaline; Peyote; N-ethyl-3-piperidyl benzilate; N-methyl-3-piperidyl  
 22 benzilate; Psilocybin; Psilocyn; Tetrahydrocannabinols; Hashish; Phencyclidine, 2  
 23 Methylamino-1-phenylpropan-1-one (including but not limited to Methcathinone,  
 24 Cat, and Ephedrone); synthetic drugs; or salvia.

25 (4) Any material, compound, mixture, or preparation which contains any quantity of the  
 26 following substance having a depressant effect on the central nervous system,  
 27 including its salts, isomers, and salts of isomers, unless specifically excepted,

whenever the existence of these salts, isomers, or salts of isomers is possible within the specific chemical designation: gamma hydroxybutyric acid.

(5) Any material, compound, mixture, or preparation which contains any quantity of the following substances:

(a) 2-(2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5H-NBOMe);

(b) 2-(4-iodo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5I-NBOMe);

(c) 2-(4-bromo-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5B-NBOMe); or

(d) 2-(4-chloro-2,5-dimethoxyphenyl)-N-[(2-methoxyphenyl)methyl]ethanamine (2,5C-NBOMe).

➔Section 3. KRS 530.065 is amended to read as follows:

(1) A person is guilty of unlawful transaction with a minor in the second degree when he knowingly induces, assists, or causes a minor to engage in illegal controlled substances activity involving marijuana, synthetic drugs, illegal gambling activity, or any other criminal activity constituting a felony.

(2) Unlawful transaction with a minor in the second degree is a Class D felony.

➔Section 4. KRS 218A.1440 is amended to read as follows:

(1) (a) Notwithstanding KRS 218A.1446, it shall be unlawful for a person convicted after July 12, 2013~~[2012]~~, of any offense in this chapter relating to methamphetamine or any offense in KRS Chapter 250 or 514 relating to anhydrous ammonia to possess or attempt to possess any compound, mixture, or preparation containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers until ten (10)~~five (5)~~ years have elapsed from the~~later of~~ 1. The date the person was convicted, unless the offense was a violation



1 of KRS 218A.1432, in which case the prohibition shall be permanent;

2 ~~2. The date the person was discharged from incarceration; or~~

3 ~~3. The date the person was released from probation, shock probation,~~  
4 ~~parole, or other form of conditional discharge.~~

5 (b) Notwithstanding KRS 218A.1446, it shall be unlawful for a person convicted  
6 prior to July 12, 2013~~[2012]~~, of any offense in this chapter relating to  
7 methamphetamine or any offense in KRS Chapter 250 or 514 relating to  
8 anhydrous ammonia to possess or attempt to possess any compound, mixture,  
9 or preparation containing ephedrine, pseudoephedrine, phenylpropanolamine,  
10 their salts or optical isomers, or salts of optical isomers without a prescription  
11 until ten (10)~~[five (5)]~~ years have elapsed from the ~~later of:~~

12 ~~1. The~~ date the person was convicted, unless the offense was a violation  
13 of KRS 218A.1432, in which case the prohibition shall be permanent;

14 ~~2. The date the person was discharged from incarceration; or~~

15 ~~3. The date the person was released from probation, shock probation,~~  
16 ~~parole, or other form of conditional discharge.~~

17 (2) The Administrative Office of the Courts shall report monthly to the Office of Drug  
18 Control Policy for utilization in the electronic logging or recordkeeping mechanism  
19 required under KRS 218A.1446 the conviction of any person for any offense in this  
20 chapter relating to methamphetamine or any offense in KRS Chapter 250 or 514  
21 relating to anhydrous ammonia, as well as the vacating, reversing, or overruling of  
22 any previously reported conviction. The information reported shall include:

23 (a) The defendant's name;

24 (b) The defendant's date of birth;

25 (c) The defendant's address;

26 (d) The defendant's identification number on a government-issued photographic  
27 identification document if available in the defendant's records readily

1 available to the circuit clerk;

2 (e) Any offense or offenses specified in subsection (1) of this section for which  
3 the defendant was convicted;

4 (f) The defendant's date of conviction; and

5 (g) The defendant's sentence or, if applicable, that the conviction was reversed,  
6 overruled, or vacated.

7 (3) A court convicting a defendant of an offense triggering the prohibition established  
8 in subsection (1) of this section shall inform the defendant of the restrictions  
9 contained in this section. Failure of a court to provide the information in accordance  
10 with this subsection shall not affect the validity of the prohibition.

11 ➔Section 5. KRS 218A.1446 is amended to read as follows:

12 (1) Any compound, mixture, or preparation containing any detectable quantity of  
13 ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers,  
14 or salts of optical isomers shall be dispensed, sold, or distributed only by a  
15 registered pharmacist, a pharmacy intern, or a pharmacy technician.

16 (2) Any person purchasing, receiving, or otherwise acquiring any nonprescription  
17 compound, mixture, or preparation containing any detectable quantity of ephedrine,  
18 pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of  
19 optical isomers shall:

20 (a) Produce a government-issued photo identification showing the date of birth of  
21 the person; and

22 (b) Sign ~~a[n electronic]~~ log or record showing the:

23 1. Date of the transaction;

24 2. Name, date of birth, and address of the person making the purchase; and

25 3. The amount and name of the compound, mixture, or preparation.

26 Only an electronic logging or recordkeeping mechanism approved by the Office of  
27 Drug Control Policy may be utilized to meet the requirements of this subsection. No

1 pharmacy may dispense or sell any compound, mixture, or preparation containing  
2 any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine,  
3 their salts or optical isomers, or salts of optical isomers unless the electronic  
4 logging or recordkeeping mechanism required by this section is provided at no cost  
5 to the pharmacy.

6 (3) An electronic log or record, as described in subsection (2) of this section, shall be  
7 kept of each day's transactions. The registered pharmacist, a pharmacy intern, or a  
8 pharmacy technician shall initial the entry of each sale in the log, evidencing  
9 completion of each transaction. The log shall be:

10 (a) Kept for a period of two (2) years; and

11 (b) Subject to random and warrantless inspection by city, county, or state law  
12 enforcement officers.

13 (4) (a) Intentional failure of a registered pharmacist, a pharmacy intern, or a  
14 pharmacy technician to make an accurate entry of a sale of a product or failure  
15 to maintain the log records as required by this section may subject him or her  
16 to a fine of not more than one thousand dollars (\$1,000) for each violation and  
17 may be evidence of a violation of KRS 218A.1438.

18 (b) If evidence exists that the pharmacist's, the pharmacy intern's, or the  
19 pharmacist technician's employer fails, neglects, or encourages incorrect entry  
20 of information by improper training, lack of supervision or oversight of the  
21 maintenance of logs, or other action or inaction, the employer shall also face  
22 liability under this section and any other applicable section of this chapter.

23 (c) It shall be a defense to a violation of this section that the person proves that  
24 circumstances beyond the control of the registered pharmacist, pharmacy  
25 intern, or pharmacy technician delayed or prevented the making of the record  
26 or retention of the record as required by this section. Examples of  
27 circumstances beyond the control of the registered pharmacist, pharmacy

- 1 intern, or pharmacy technician include but are not limited to:
- 2 1. Fire, natural or manmade disaster, loss of power, and similar events;
  - 3 2. Robbery, burglary, shoplifting, or other criminal act by a person on the
  - 4 premises;
  - 5 3. A medical emergency suffered by the registered pharmacist, pharmacy
  - 6 intern, or pharmacy technician, another employee of the establishment, a
  - 7 customer, or any other person on the premises; or
  - 8 4. Some other circumstance that establishes that an omission was
  - 9 inadvertent.
- 10 (5) No person shall purchase, receive, or otherwise acquire any product, mixture, or
- 11 preparation or combinations of products, mixtures, or preparations containing more
- 12 than seven and one-fifth (7.2) grams of ephedrine, pseudoephedrine, or
- 13 phenylpropanolamine, their salts or optical isomers, or salts of optical isomers
- 14 within any thirty (30) day period or twenty-four (24) grams within any one (1) year
- 15 period, provided that either of these limits shall not apply to any quantity of product,
- 16 mixture or preparation dispensed pursuant to a valid prescription. In addition to the
- 17 thirty (30) day and the one (1) year restrictions, no person shall purchase, receive, or
- 18 otherwise acquire more than three (3) packages of any product, mixture, or
- 19 preparation containing ephedrine, pseudoephedrine, or phenylpropanolamine, their
- 20 salts or optical isomers, or salts of optical isomers during each transaction.
- 21 (6) A person under eighteen (18) years of age shall not purchase or attempt to purchase
- 22 any quantity of a nonprescription ephedrine, pseudoephedrine, or
- 23 phenylpropanolamine product as described in subsection (1) of this section. No
- 24 person shall aid or assist a person under eighteen (18) years of age in purchasing
- 25 any quantity of a nonprescription ephedrine, pseudoephedrine, or
- 26 phenylpropanolamine product as described in subsection (1) of this section.
- 27 (7) The requirements of this section shall not apply to any compounds, mixtures, or

1 preparation containing ephedrine, pseudoephedrine, or phenylpropanolamine, their  
 2 salts or optical isomers, or salts of optical isomers which are in liquid, liquid  
 3 capsule, or gel capsule form or to any compounds, mixtures, or preparations  
 4 containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts or  
 5 optical isomers which are deemed to be not subject to abuse upon joint review and  
 6 agreement of the Office of Drug Control Policy, the Board of Pharmacy, and the  
 7 Cabinet for Health and Family Services.

8 (8) The provisions of this section shall not apply to a:

- 9 (a) Licensed manufacturer manufacturing and lawfully distributing a product in  
 10 the channels of commerce;
- 11 (b) Wholesaler lawfully distributing a product in the channels of commerce;
- 12 (c) Pharmacy with a valid permit from the Kentucky Board of Pharmacy;
- 13 (d) Health care facility licensed pursuant to KRS Chapter 216B;
- 14 (e) Licensed long-term care facility;
- 15 (f) Government-operated health department;
- 16 (g) Physician's office;
- 17 (h) Publicly operated prison, jail, or juvenile correctional facility, or a private  
 18 adult or juvenile correctional facility under contract with the Commonwealth;
- 19 (i) Public or private educational institution maintaining a health care program; or
- 20 (j) Government-operated or industrial medical facility serving its own employees.

21 (9) The provisions of this section shall supersede and preempt all local laws,  
 22 ordinances, and regulations pertaining to the sale of any compounds, mixtures, or  
 23 preparation containing ephedrine, pseudoephedrine, phenylpropanolamine, their  
 24 salts or optical isomers, or salts of optical isomers.

25 (10) To be approved for use under this section, ~~a[n electronic]~~ logging or recordkeeping  
 26 system shall:

- 27 (a) Be designed to block the dispensing of any compound, mixture, or preparation

1 containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or  
 2 optical isomers, or salts of optical isomers, where the dispensing would  
 3 exceed the quantity limitations established in this section or would be  
 4 prohibited under KRS 218A.1440; and

5 (b) Allow unimpeded access by the Office of Drug Control Policy to any data  
 6 stored in the system for statistical analysis purposes.

7 (11) The Office of Drug Control Policy shall prepare and submit to the Legislative  
 8 Research Commission an annual statistical report on the sale of compounds,  
 9 mixtures, or preparations containing ephedrine, pseudoephedrine,  
 10 phenylpropanolamine, their salts or optical isomers, or salts of optical isomers,  
 11 including state and county sale amounts and numbers of individual purchasers.

12 ➔Section 6. KRS 218A.020 is amended to read as follows:

13 (1) The Cabinet for Health and Family Services shall administer this chapter and may  
 14 by regulation add substances to or delete or reschedule all substances enumerated in  
 15 the schedules set forth in this chapter. In making a determination regarding a  
 16 substance, the Cabinet for Health and Family Services may consider the following:

- 17 (a) The actual or relative potential for abuse;
- 18 (b) The scientific evidence of its pharmacological effect, if known;
- 19 (c) The state of current scientific knowledge regarding the substance;
- 20 (d) The history and current pattern of abuse;
- 21 (e) The scope, duration, and significance of abuse;
- 22 (f) The risk to the public health;
- 23 (g) The potential of the substance to produce psychic or physiological dependence
- 24 liability; and
- 25 (h) Whether the substance is an immediate precursor of a substance already
- 26 controlled under this chapter.

27 (2) After considering the factors enumerated in subsection (1) of this section, the

1 Cabinet for Health and Family Services may adopt a regulation controlling the  
2 substance if it finds the substance has a potential for abuse.

- 3 (3) If any substance is designated, rescheduled, or deleted as a controlled substance  
4 under federal law and notice thereof is given to the Cabinet for Health and Family  
5 Services, the Cabinet for Health and Family Services may similarly control the  
6 substance under this chapter by regulation. If hydrocodone or any drug containing  
7 hydrocodone is rescheduled to Schedule II in this manner, the prescriptive  
8 authority existing on the effective date of this Act of any practitioner licensed  
9 under the laws of the Commonwealth to prescribe, dispense, or administer  
10 hydrocodone or drugs containing hydrocodone shall remain inviolate and shall  
11 continue to exist to the same extent as if those drugs had remained classified as  
12 Schedule III controlled substances.


- 13 (4) The Cabinet for Health and Family Services shall exclude any nonnarcotic  
14 substance from a schedule if the substance may be lawfully sold over the counter  
15 without prescription under the provisions of the Federal Food, Drug and Cosmetic  
16 Act, or the Federal Comprehensive Drug Abuse Prevention and Control Act of  
17 1970, or the Kentucky Revised Statutes (for the purposes of this section the  
18 Kentucky Revised Statutes shall not include any regulations issued thereunder).

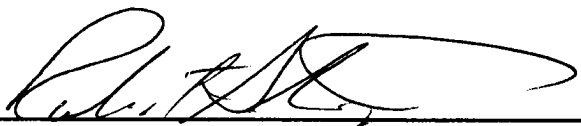
- 19 (5) The Office of Drug Control Policy may request that the Cabinet for Health and  
20 Family Services schedule a substance substantially similar to a synthetic  
21 cannabinoid or piperazine or a synthetic cathinone. The cabinet shall consider the  
22 request utilizing the criteria established by this section and shall issue a written  
23 response within sixty (60) days of the scheduling request delineating the cabinet's  
24 decision to schedule or not schedule the substance and the basis for the cabinet's  
25 decision. The cabinet's response shall be provided to the Legislative Research  
26 Commission and shall be a public record.


27 ➔Section 7. Whereas the substances identified in this Act pose a clear and present

1 danger to the health, safety, and welfare of the citizens of the Commonwealth and no just  
2 reason exists for delay, an emergency is declared to exist, and this Act takes effect upon  
3 its passage and approval by the Governor or upon its otherwise becoming a law.



  
\_\_\_\_\_  
Speaker-House of Representatives

  
\_\_\_\_\_  
President of Senate

Attest:   
\_\_\_\_\_  
Chief Clerk of House of Representatives

Approved   
\_\_\_\_\_  
Governor

Date 3/19/13